

Senate Bill No. 2014

CHAPTER 762

An act to amend Sections 1810.3 and 2941.7 of the Civil Code, and to amend Sections 1513.5, 1520, 1530, 1531, 1532, 1532.1, 1563, and 1576 of the Code of Civil Procedure, relating to unclaimed property, and making an appropriation therefor.

[Approved by Governor September 21, 1996. Filed
with Secretary of State September 23, 1996.]

LEGISLATIVE COUNSEL'S DIGEST

SB 2014, Alquist. Unclaimed property.

(1) Under the Unclaimed Property Law, personal property generally escheats to the state after being unclaimed for 3 years, with specified exceptions.

Under provisions of existing law that generally govern the terms and conditions of retail installment sales agreements between buyers and sellers, an outstanding credit balance that remains unrefundable for 7 years from the date it was created in the buyer's account escheats to the state as property described in the Unclaimed Property Law.

Under provisions of existing law that generally govern obligations secured by a mortgage or deed of trust, the sum of any specified balance due which remains due and which is remitted to any issuer of a corporate bond in conjunction with the issuance of the bond escheats to the state after 7 years pursuant to the Unclaimed Property Law.

This bill would revise these provisions to conform to the 3-year escheat period in the Unclaimed Property Law.

(2) The Unclaimed Property Law requires every person holding funds or other property escheated to the state under the Unclaimed Property Law to make a prescribed report to the Controller. Existing law requires this report to include, among other things, the name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of any escheated property valued at \$25 or more, except as specified.

This bill would revise this requirement to be applicable to ownership of escheated property valued at \$50 or more.

(3) Existing law also requires the report specified in (2) to include prescribed information regarding any intangible property, except that items of value under \$25 each may be reported in aggregate.

This bill would extend the applicability of this exception for items of value under \$50 each.

(4) Existing law requires, within one year after payment or delivery of escheated property, the Controller to cause a notice to be published, as specified, in a newspaper of general circulation that the Controller determines is most likely to give notice to the apparent owner of the property. Existing law requires this notice to have a prescribed title and contain the names as specified.

This bill would revise these provisions to, among other things, delete the requirement that the notice contain the names and revise the title accordingly.

(5) Existing law requires the Controller to mail notice of escheated property valued at \$25 or more, within 180 days of payment or delivery thereof to the Controller, to each person listed in a specified annual report to the Controller.

This bill would eliminate this general requirement but would require notice to be sent in specified cases.

(6) Existing law requires every person who files a report specified in (2) to pay or deliver to the Controller all escheated property specified in the report when the report is filed.

This bill would require, on and after January 1, 1997, a payment of unclaimed cash in an amount of at least \$20,000 to be made by electronic funds transfer pursuant to regulations adopted by the Controller. This bill would provide that any person required to pay cash by electronic funds transfer who makes the payment by means other than an authorized electronic funds transfer shall be liable for a prescribed civil penalty, in addition to any other penalty provided by existing law.

(7) Existing law provides that all money received under the Unclaimed Property Law shall be deposited in the Unclaimed Property Fund, which is continuously appropriated for specified purposes.

By increasing the amounts that may be deposited in the fund, this bill would make an appropriation.

(8) Existing law requires certain business associations to make a reasonable effort to notify by mail the apparent owner or owners, if any, of certain financial accounts owing to that person. Existing law also requires the Controller to notify by mail the apparent owner or owners, if any, of property subject to escheat, as specified.

This bill would require specified other persons holding property which is valued at \$50 or more and subject to escheat to make reasonable efforts to notify the apparent owner or owners, if any, that the property will escheat, as specified. This bill would delete this mailed notice requirement for the Controller.

(9) The Unclaimed Property Law requires escheated securities listed on an established stock exchange to be sold at the prevailing prices on that exchange within one year following receipt of the securities by the Controller.



This bill would instead require that the sale be made within two years following receipt.

(10) Existing law specifies monetary penalties for the willful failure to render any report or perform other duties pursuant to the law. Existing law specifies monetary penalties or imprisonment for willful refusal to pay or deliver escheated property.

This bill would revise and recast these provisions to, among other things, increase the amounts of the monetary penalties and delete this penalty of imprisonment.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 1810.3 of the Civil Code is amended to read:

1810.3. (a) Except in the case of an account which the seller deems to be uncollectible or with respect to which delinquency collection procedures have been instituted, the seller of any retail installment account shall mail or deliver to the buyer for each billing cycle at the end of which there is an outstanding debit balance in excess of one dollar (\$1) in that account or with respect to which a finance charge is imposed, a statement or statements which the buyer may retain, setting forth in accordance with subdivision (c) each of the following items to the extent applicable:

(1) The outstanding balance in the account at the beginning of the billing cycle, using the term “previous balance.”

(2) The amount and date of each extension of credit or the date the extension of credit is debited to the account during the billing cycle and, unless previously furnished, a brief identification of any goods or services purchased or other extension of credit.

(3) The total amounts credited to the account during the billing cycle for payments, using the term “payment,” and for other credits, including returns, rebates of finance charges, and adjustments, using the term “credits,” and unless previously furnished, a brief identification of each of the items included in the other credits.

(4) The amount of any finance charge, using the term “finance charge,” debited to the account during the billing cycle, itemized and identified to show the amounts, if any, due to the application of periodic rates and the amount of any other charge included in the finance charge, such as a minimum charge, using appropriate descriptive terminology.

(5) Each periodic rate, using the term “periodic rate” (or “rates”), that may be used to compute the finance charge (whether or not applied during the billing cycle), and the range of balances to which it is applicable.

(6) The balance on which the finance charge was computed, and a statement of how that balance was determined. If any balance is

determined without first deducting all credits during the billing cycle, that fact and the amount of the credits shall also be disclosed.

(7) The closing date of the billing cycle and the outstanding balance in the account on that date, using the term “new balance,” accompanied by the statement of the date by which, or the period, if any, within which, payment must be made to avoid additional finance charges.

(b) The seller shall mail or deliver the statements required by subdivision (a) at least 14 days prior to any date or the end of any time period required to be disclosed under paragraph (7) of subdivision (a) in order for the consumer to avoid an additional finance or other charge. A seller that fails to meet this requirement shall not collect any finance or other charges imposed as a result of the failure.

(c) The disclosures required by subdivision (a) may be made on the face of the periodic statement or on its reverse side. In addition, the disclosures required by subdivision (a) may be made on the periodic statement supplemented by separate statement forms if they are enclosed together and delivered to the customer at the same time and if all of the following conditions are met:

(1) The disclosures required by paragraph (1) of subdivision (a) shall appear on the face of the periodic statement. If the amounts and dates of the charges and credits required to be disclosed under paragraphs (2) and (3) of subdivision (a) are not itemized on the face or reverse side of the periodic statement, they shall be disclosed on a separate statement or separate slips which shall accompany the periodic statement and identify each charge and credit and show the date and amount thereof. Identification of goods or services purchased may be made on an accompanying slip or by symbol relating to an identification list printed on the statement. If the disclosures required under paragraph (4) of subdivision (a) are not itemized on the face or reverse side of the periodic statement, they shall be disclosed on a separate statement which shall accompany the periodic statement.

(2) The disclosures required by paragraph (5) of subdivision (a) and a reference to the amounts required to be disclosed under paragraphs (4) and (6) of subdivision (a), if not disclosed together on the face or the reverse side of the periodic statement, shall appear together on the face of a single supplemental statement which shall accompany the periodic statement.

(3) The face of the periodic statement shall contain one of the following notices, as applicable: “NOTICE: See reverse side for important information” or “NOTICE: See accompanying statement(s) for important information” or “NOTICE: See reverse side and accompanying statement(s) for important information.”

(4) The disclosures shall not be separated so as to confuse or mislead the customer, or to obscure or detract attention from the information required to be disclosed.



(d) If any change is to be made in terms of a retail installment account previously disclosed to the buyer, the seller shall mail or deliver to the buyer written disclosure of the proposed change not less than 30 days prior to the effective date of the change or 30 days prior to the beginning of the billing cycle within which the change will become effective, whichever is the earlier date. When the change involves a reduction of any component of a finance charge or other charge, the notice shall be sufficient if it appears on or accompanies the periodic statements mailed or delivered to buyers receiving periodic statements in the ordinary course of business. When the change involves an increase in any component of a finance charge, as defined in Section 1802.10, or involves a change in a charge permitted by Section 1810.4 or a change in the attorney's fee provision in the agreement pursuant to Section 1810.4, the change shall be effective only with respect to purchases made on or after the effective date of the change.

(e) (1) If any outstanding credit balance in excess of one dollar (\$1) exists in a retail installment account, the seller shall mail or deliver to the buyer at the end of the billing cycle in which the credit balance is created either of the following:

(A) A cash refund in the amount of the outstanding credit.

(B) A statement setting forth the credit balance, and thereafter shall mail or deliver to the buyer a statement setting forth the credit balance no fewer than two additional times during the six-month period following creation of the credit balance.

(2) If the credit balance exists for a period of 90 days, the seller shall, at his or her option, do either of the following:

(A) Notify the buyer of his or her right to request and receive a cash refund in the amount of the outstanding credit balance in two successive statements covering, respectively, each of the two successive billing cycles immediately following the 90-day period. The notice is to be accomplished by a clear and conspicuous disclosure on or enclosed with each of the two successive statements, each of which shall be accompanied by a self-addressed return envelope. The disclosure shall contain the following information and may be in the following form:

“We owe you _____. Your credit balance will be refunded on request. If you don't request a refund, six months from the first appearance of a “credit balance” on your bill, your credit balance will be refunded automatically.

“If your credit balance is \$1.00 or less, it will not be refunded unless requested, and after 6 months, it will not be credited against future purchases.

“You may obtain a refund of your credit balance by mail by presenting your statement at our store or by returning the top half of your statement in the enclosed envelope.”



If between the sending of the first notice and the sending of the second notice required by this subparagraph, the outstanding credit balance is refunded to the buyer or otherwise disposed of, the sending of the second notice shall not be required.

(B) Refund to the buyer the outstanding credit balance at any time after the credit balance is created in the buyer's account and prior to the date by which the first notice of the outstanding balance would have been sent had the seller elected to proceed under subparagraph (A).

(f) (1) If a retail installment account with an outstanding credit balance in excess of one dollar (\$1) which has been determined to be correct by the seller is dormant for a period of 180 days after the credit balance is created in the buyer's account, the seller shall mail or deliver a refund in the amount of the outstanding credit balance to the buyer at the buyer's last known address.

(2) If any refund is returned to the seller with a notification to the effect that the addressee is not located at the address to which it was sent, the seller shall make one remailing of the refund with an address correction request, and shall mail the refund to the corrected address, if it is obtained.

(3) If the refund reflecting an outstanding credit balance in excess of twenty-five dollars (\$25) is again returned, the seller shall reinstate the full amount of the outstanding credit balance on the buyer's account to be retained and credited against future purchases for one year from the date on which the remailed refund was returned. The seller may continue to attempt to obtain a current mailing address for the buyer by whatever means the seller deems appropriate. Except as provided in subdivision (g), the seller shall not be required to take any further action with respect to sending any statement of the credit balance or otherwise with respect to the credit balance, unless the buyer of the account thereafter requests a refund of the credit balance, in which event the seller shall either make the refund or provide a written explanation as provided in paragraph (5) of this subdivision.

(4) If a remailed refund reflecting an outstanding credit balance of twenty-five dollars (\$25) or less is again returned, the seller, except as provided in subdivision (g), shall not be required to take any further action with respect to sending any statement of the credit balance to the buyer or otherwise with respect to the credit balance, unless the buyer of the account thereafter requests a refund of the credit balance, in which event the seller shall either make the refund or provide a written explanation as provided in paragraph (5) of this subdivision.

(5) If a buyer requests, in person or by mail, a refund of a credit balance in any amount which has been reflected at any time on the buyer's account, the seller shall, within 30 days of receipt of the



request, either refund the amount requested, or furnish the customer with a written explanation, with supporting documentation when available, of the reasons for refusing to refund the amount requested.

(6) If a buyer, in writing, requests a seller to retain an outstanding credit balance on his or her account, the seller shall not be required to give notification as otherwise required by subdivisions (e) and (f).

(g) If an outstanding credit balance remains unrefundable for three years from the date it was created in the buyer's account, then the amount of the buyer's outstanding credit balance shall escheat to the state as property included within Section 1520 of the Code of Civil Procedure. Those funds shall be paid or delivered to the Controller, and may thereafter be claimed, as specified in Chapter 7 (commencing with Section 1500) of Title 10 of Part 4 of the Code of Civil Procedure.

(h) For the purposes of this section, an outstanding credit balance is created at the end of the billing cycle in which the credit balance is first recorded on a buyer's account and is created anew at the end of the billing cycle in which the recorded amount of an existing credit balance is changed because of the buyer's use of his or her account.

SEC. 2. Section 2941.7 of the Civil Code is amended to read:

2941.7. Whenever the obligation secured by a mortgage or deed of trust has been fully satisfied and the present mortgagee or beneficiary of record cannot be located after diligent search, or refuses to execute and deliver a proper certificate of discharge or request for reconveyance, or whenever a specified balance, including principal and interest, remains due and the mortgagor or trustor or the mortgagor's or trustor's successor in interest cannot, after diligent search, locate the then mortgagee or beneficiary of record, the lien of any mortgage or deed of trust shall be released when the mortgagor or trustor or the mortgagor's or trustor's successor in interest records or causes to be recorded, in the office of the county recorder of the county in which the encumbered property is located, a corporate bond accompanied by a declaration, as specified in subdivision (b), and with respect to a deed of trust, a reconveyance as hereinafter provided.

(a) The bond shall be acceptable to the trustee and shall be issued by a corporation lawfully authorized to issue surety bonds in the State of California in a sum equal to the greater of either (1) two times the amount of the original obligation secured by the mortgage or deed of trust and any additional principal amounts, including advances, shown in any recorded amendment thereto, or (2) one-half of the total amount computed pursuant to (1) and any accrued interest on such amount, and shall be conditioned for payment of any sum which the mortgagee or beneficiary may recover in an action on the obligation secured by the mortgage or deed of trust, with costs of suit and reasonable attorneys' fees. The obligees under the bond shall be the mortgagee or mortgagee's successor in interest or the trustee



who executes a reconveyance under this section and the beneficiary or beneficiary's successor in interest.

The bond recorded by the mortgagor or trustor or mortgagor's or trustor's successor in interest shall contain the following information describing the mortgage or deed of trust:

(1) Recording date and instrument number or book and page number of the recorded instrument.

(2) Names of original mortgagor and mortgagee or trustor and beneficiary.

(3) Amount shown as original principal sum secured thereby.

(4) The recording information and new principal amount shown in any recorded amendment thereto.

(b) The declaration accompanying the corporate bond recorded by the mortgagor or trustor or the mortgagor's or trustor's successor in interest shall state:

(1) That it is recorded pursuant to this section.

(2) The name of the original mortgagor or trustor and mortgagee or beneficiary.

(3) The name and address of the person making the declaration.

(4) That either the obligation secured by the mortgage or deed of trust has been fully satisfied and the present mortgagee or beneficiary of record cannot be located after diligent search, or refuses to execute and deliver a proper certificate of discharge or request for reconveyance as required under Section 2941; or that a specified balance, including principal and interest, remains due and the mortgagor or trustor or mortgagor's or trustor's successor in interest cannot, after diligent search, locate the then mortgagee or beneficiary.

(5) That the declarant has mailed by certified mail, return receipt requested, to the last address of the person to whom payments under the mortgage or deed of trust were made and to the last mortgagee or beneficiary of record at the address for such mortgagee or beneficiary shown on the instrument creating, assigning, or conveying the interest, a notice of recording a declaration and bond under this section and informing the recipient of the name and address of the mortgagor or trustee, if any, and of the right to record a written objection with respect to the release of the lien of the mortgage or, with respect to a deed of trust, notify the trustee in writing of any objection to the reconveyance of the deed of trust. The declaration shall state the date any notices were mailed pursuant to this section and the names and addresses of all persons to whom mailed.

The declaration provided for in this section shall be signed by the mortgagor or trustor under penalty of perjury.

(c) With respect to a deed of trust, after the expiration of 30 days following the recording of the corporate bond and accompanying declaration provided in subdivisions (a) and (b), and delivery to the

trustee of the usual reconveyance fees plus costs and a demand for reconveyance under this section, the trustee shall execute and record, or otherwise deliver as provided in Section 2941, a reconveyance in the same form as if the beneficiary had delivered to the trustee a proper request for reconveyance, provided that the trustee has not received a written objection to the reconveyance from the beneficiary of record. No trustee shall have any liability to any person by reason of its execution of a reconveyance in reliance upon a trustor's or trustor's successor's in interest substantial compliance with this section. The sole remedy of any person damaged by reason of the reconveyance shall be against the trustor, the affiant, or the bond. With respect to a mortgage, a mortgage shall be satisfied of record when 30 days have expired following recordation of the corporate bond and accompanying declaration, provided no objection to satisfaction has been recorded by the mortgagee within that period. A bona fide purchaser or encumbrancer for value shall take the interest conveyed free of such mortgage, provided there has been compliance with subdivisions (a) and (b) and the deed to the purchaser recites that no objections by the mortgagee have been recorded.

Upon recording of a reconveyance under this section, or, in the case of a mortgage the expiration of 30 days following recordation of the corporate bond and accompanying declaration without objection thereto having been recorded, interest shall no longer accrue as to any balance remaining due to the extent the balance due has been alleged in the declaration recorded under subdivision (b).

The sum of any specified balance, including principal and interest, which remains due and which is remitted to any issuer of a corporate bond in conjunction with the issuance of a bond pursuant to this section shall, if unclaimed, escheat to the state after three years pursuant to the Unclaimed Property Law. From the date of escheat the issuer of the bond shall be relieved of any liability to pay to the beneficiary or his or her heirs or other successors in interest the escheated funds and the sole remedy shall be a claim for property paid or delivered to the Controller pursuant to the Unclaimed Property Law.

(d) The term "diligent search," as used in this section, shall mean all of the following:

(1) The mailing of notices as provided in paragraph (5) of subdivision (b), and to any other address that the declarant has used to correspond with or contact the mortgagee or beneficiary.

(2) A check of the telephone directory in the city where the mortgagee or beneficiary maintained the mortgagee's or beneficiary's last known address or place of business.

(3) In the event the mortgagee or beneficiary or the mortgagee's or beneficiary's successor in interest is a corporation, a check of the



records of the California Secretary of State and the secretary of state in the state of incorporation, if known.

(4) In the event the mortgagee or beneficiary is a state or national bank or a state or federal savings and loan association, an inquiry of the regulatory authority of such bank or savings and loan association.

(e) This section shall not be deemed to create an exclusive procedure for the issuance of reconveyances and the issuance of bonds and declarations to release the lien of a mortgage and shall not affect any other procedures, whether or not such procedures are set forth in statute, for the issuance of reconveyances and the issuance of bonds and declarations to release the lien of a mortgage.

(f) For purposes of this section, the trustor or trustor's successor in interest may substitute the present trustee of record without conferring any duties upon the trustee other than those that are incidental to the execution of a reconveyance pursuant to this section if all of the following requirements are met:

(1) The present trustee of record and the present mortgagee or beneficiary of record cannot be located after diligent search.

(2) The declaration filed pursuant to subdivision (b) shall state in addition that it is filed pursuant to this subdivision, and shall, in lieu of the provisions of paragraph (4) of subdivision (b), state that the obligation secured by the mortgage or deed of trust has been fully satisfied and the present trustee of record and present mortgagee or beneficiary of record cannot be located after diligent search.

(3) The substitute trustee is a title insurance company that agrees to accept the substitution. This subdivision shall not impose a duty upon a title insurance company to accept the substitution.

(4) The corporate bond required in subdivision (a) is for a period of five or more years.

SEC. 3. Section 1513.5 of the Code of Civil Procedure is amended to read:

1513.5. (a) Except as provided in subdivision (c), if the holder has in its records an address for the apparent owner, which the holder's records do not disclose to be inaccurate, every banking or financial organization shall make reasonable efforts to notify by mail any customer that the customer's deposit, account, shares, or other interest in the banking or financial organization will escheat to the state pursuant to subdivision (a) or (b) of Section 1513. The holder shall give notice either:

(1) Not less than two years nor more than two and one-half years after the date of last activity by, or communication with, the owner with respect to the account, deposit, shares, or other interest, as shown on the record of the financial organization.

(2) Not less than six nor more than 12 months before the time the account, deposit, shares, or other interest becomes reportable to the Controller in accordance with this chapter.



(b) The notice required by this section shall specify the time that the deposit, account, shares, or other interest will escheat and the effects of escheat, including the necessity for filing a claim for the return of the deposit, account, shares, or other interest. It shall also include a form, as prescribed by the Controller, by which the customer may declare an intention to maintain the deposit, account, shares, or other interest. If that form is filled out, signed by the customer, and returned to the banking or financial organization, it shall satisfy the requirement of paragraph (3) of subdivision (a) or paragraph (3) of subdivision (b) of Section 1513. The banking or financial organization may impose a service charge on the deposit, account, shares, or other interest for this notice in an amount not to exceed the administrative cost of mailing the notice and form and in no case to exceed two dollars (\$2).

(c) Notice as provided by subdivisions (a) and (b) shall not be required for deposits, accounts, shares, or other interests of less than fifty dollars (\$50), and no service charge may be made for notice on these items.

SEC. 4. Section 1520 of the Code of Civil Procedure is amended to read:

1520. (a) All tangible personal property located in this state and, subject to Section 1510, all intangible personal property, except property of the classes mentioned in Sections 1511, 1513, 1514, 1515, 1516, 1517, 1518, 1519, and 1521, including any income or increment thereon and deducting any lawful charges, that is held or owing in the ordinary course of the holder's business and has remained unclaimed by the owner for more than three years after it became payable or distributable escheats to this state.

(b) Except as provided in subdivision (a) of Section 1513.5 and subdivision (d) of Section 1516, if the holder has in its records an address for the apparent owner of property valued at fifty dollars (\$50) or more, which the holder's records do not disclose to be inaccurate, the holder shall make reasonable efforts to notify the owner by mail that the owner's property will escheat to the state pursuant to this chapter. The notice shall be mailed not less than six nor more than 12 months before the time when the owner's property held by the business becomes transferable to the Controller in accordance with this chapter. The notice required by this subdivision shall specify the time when the property will escheat and the effects of escheat, including the need to file a claim in order for the owner's property to be returned to the owner. It shall also include a form, as prescribed by the Controller, by which the owner may confirm the owner's current address. If that form is filled out, signed by the owner, and returned to the holder, it shall be deemed that the account, or other device in which the owner's property is being held, remains currently active and recommences the escheat period.



(c) For purposes of this section, “lawful charges” means charges which are specifically authorized by statute, other than the Unclaimed Property Law, or by a valid, enforceable contract.

SEC. 5. Section 1530 of the Code of Civil Procedure is amended to read:

1530. (a) Every person holding funds or other property escheated to this state under this chapter shall report to the Controller as provided in this section.

(b) The report shall be on a form prescribed or approved by the Controller and shall include:

(1) Except with respect to travelers checks and money orders, the name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of any property of value of at least fifty dollars (\$50) escheated under this chapter.

(2) In case of escheated funds of life insurance corporations, the full name of the insured or annuitant, and his or her last known address, according to the life insurance corporation’s records.

(3) In the case of the contents of a safe deposit box or other safekeeping repository or in the case of other tangible property, a description of the property and the place where it is held and may be inspected by the Controller. The report shall set forth any amounts owing to the holder for unpaid rent or storage charges and for the cost of opening the safe deposit box or other safekeeping repository, if any, in which the property was contained.

(4) The nature and identifying number, if any, or description of any intangible property and the amount appearing from the records to be due, except that items of value under fifty dollars (\$50) each may be reported in aggregate.

(5) Except for any property reported in the aggregate, the date when the property became payable, demandable, or returnable, and the date of the last transaction with the owner with respect to the property.

(6) Other information which the Controller prescribes by rule as necessary for the administration of this chapter.

(c) If the holder is a successor to other persons who previously held the property for the owner, or if the holder has changed his or her name while holding the property, he or she shall file with his or her report all prior known names and addresses of each holder of the property.

(d) The report shall be filed before November 1 of each year as of June 30 or fiscal year-end next preceding, but the report of life insurance corporations shall be filed before May 1 of each year as of December 31 next preceding. The Controller may postpone the reporting date upon his or her own motion or upon written request by any person required to file a report.



(e) The report, if made by an individual, shall be verified by the individual; if made by a partnership, by a partner; if made by an unincorporated association or private corporation, by an officer; and if made by a public corporation, by its chief fiscal officer or other employee authorized by the holder.

SEC. 6. Section 1531 of the Code of Civil Procedure is amended to read:

1531. (a) Within one year after payment or delivery of escheated property as required by Section 1532, the Controller shall cause a notice to be published, in a newspaper of general circulation which the Controller determines is most likely to give notice to the apparent owner of the property.

(b) Each published notice shall be entitled “notice to owners of unclaimed property.”

(c) Each published notice shall also contain a statement that information concerning the amount or description of the property may be obtained by any persons possessing an interest in the property by addressing any inquiry to the Controller.

(d) If an account paid or delivered to the Controller pursuant to Section 1532 includes a social security number, the Controller shall request the Franchise Tax Board to provide a current address for the apparent owner on the basis of that number. The Controller shall mail a notice to the apparent owner for whom a current address is obtained if the address is different than the address previously reported to the Controller.

SEC. 7. Section 1532 of the Code of Civil Procedure is amended to read:

1532. (a) Every person filing a report as provided by Section 1530 shall pay or deliver to the Controller all escheated property specified in the report at the same time the report is filed. On and after January 1, 1997, a payment of unclaimed cash in an amount of at least twenty thousand dollars (\$20,000) shall be made by electronic funds transfer pursuant to regulations adopted by the Controller.

(b) The holder of any interest under subdivision (b) of Section 1516 shall deliver a duplicate certificate to the Controller. Upon delivery of a duplicate certificate to the Controller, the holder and any transfer agent, registrar or other person acting for or on behalf of the holder in executing or delivering the duplicate certificate shall be relieved from all liability of every kind to any person including, but not limited to, any person acquiring the original certificate or the duplicate of the certificate issued to the Controller for any losses or damages resulting to that person by the issuance and delivery to the Controller of such duplicate certificate.

(c) Payment of any intangible property to the Controller shall be made at the office of the Controller in Sacramento or at such other location as the Controller by regulation may designate. Except as otherwise agreed by the Controller and the holder, tangible personal

property shall be delivered to the Controller at the place where it is held.

(d) Payment is deemed complete on the date the electronic funds transfer is initiated if the settlement to the state's demand account occurs on or before the banking day following the date the transfer is initiated. If the settlement to the state's demand account does not occur on or before the banking day following the date the transfer is initiated, payment is deemed to occur on the date settlement occurs.

(e) Any person required to pay cash by electronic funds transfer who makes the payment by means other than an authorized electronic funds transfer shall be liable for a civil penalty of 2 percent of the amount of the payment that is due pursuant to this section, in addition to any other penalty provided by law. Penalties are due at the time of payment. If the Controller finds that a holder's failure to make payment by an appropriate electronic funds transfer in accordance with the Controller's procedures is due to reasonable cause and circumstances beyond the holder's control, and occurred notwithstanding the exercise of ordinary care and in the absence of willful neglect, that holder shall be relieved of the penalties.

(f) An electronic funds transfer shall be accomplished by an automated clearinghouse debit, an automated clearinghouse credit, a Federal Reserve Wire Transfer (Fedwire), or by an international funds transfer. Banking costs incurred for the automated clearinghouse debit transaction by the holder shall be paid by the state. Banking costs incurred by the state for the automated clearinghouse credit transaction may be paid by the holder originating the credit. Banking costs incurred for the Fedwire transaction charged to the holder and the state shall be paid by the person originating the transaction. Banking costs charged to the holder and to the state for an international funds transfer may be charged to the holder.

(g) For purposes of this section:

(1) "Electronic funds transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, telephonic instrument, modem, computer, or magnetic tape, so as to order, instruct, or authorize a financial institution to credit or debit an account.

(2) "Automated clearinghouse" means any federal reserve bank, or an organization established by agreement with the National Automated Clearing House Association, that operates as a clearinghouse for transmitting or receiving entries between banks or bank accounts and that authorizes an electronic transfer of funds between those banks or bank accounts.

(3) "Automated clearinghouse debit" means a transaction in which the state, through its designated depository bank, originates an automated clearinghouse transaction debiting the holder's bank



account and crediting the state's bank account for the amount of payment.

(4) "Automated clearinghouse credit" means an automated clearinghouse transaction in which the holder, through its own bank, originates an entry crediting the state's bank account and debiting the holder's bank account.

(5) "Fedwire" means any transaction originated by the holder and utilizing the national electronic payment system to transfer funds through federal reserve banks, pursuant to which the holder debits its own bank account and credits the state's bank account. Electronic funds transfer may be made by Fedwire only if prior approval is obtained from the Controller and the holder is unable, for reasonable cause, to make payment pursuant to paragraph (2) or (3).

(6) "International funds transfer" means any transaction originated by the holder and utilizing the international electronic payment system to transfer funds, pursuant to which the holder debits its own bank account, and credits the funds to a United States bank that credits the Unclaimed Property Fund.

SEC. 8. Section 1532.1 of the Code of Civil Procedure is amended to read:

1532.1. Notwithstanding Sections 1531 and 1532, property that escheats to the state pursuant to Section 1514 shall not be paid or delivered to the state until the earlier of (a) the time when the holder is requested to do so by the Controller or (b) within one year after the final date for filing the report required by Section 1530 as specified in subdivision (d) of Section 1530. Within one year after receipt of property as provided by this section, the Controller shall cause a notice to be published as provided in Section 1531.

SEC. 9. Section 1563 of the Code of Civil Procedure is amended to read:

1563. (a) Except as provided in subdivision (b), all escheated property delivered to the Controller under this chapter shall be sold by the Controller to the highest bidder at public sale in whatever city in the state affords in his or her judgment the most favorable market for the property involved. The Controller may decline the highest bid and reoffer the property for sale if he or she considers the price bid insufficient. The Controller need not offer any property for sale if, in his or her opinion, the probable cost of sale exceeds the value of the property. Any sale of escheated property held under this section shall be preceded by a single publication of notice thereof, at least one week in advance of sale, in an English language newspaper of general circulation in the county where the property is to be sold.

(b) Securities listed on an established stock exchange within two years following receipt by the Controller shall be sold at the prevailing prices on that exchange. Other securities may be sold over the counter at prevailing prices or, with prior approval of the State Board of Control, by such other method as the Controller may

determine to be advisable. United States government savings bonds and United States war bonds shall be presented to the United States for payment. Subdivision (a) does not apply to the property described in this subdivision.

(c) The purchaser at any sale conducted by the Controller pursuant to this chapter shall receive title to the property purchased, free from all claims of the owner or prior holder thereof and of all persons claiming through or under them. The Controller shall execute all documents necessary to complete the transfer of title.

SEC. 10. Section 1576 of the Code of Civil Procedure is amended to read:

1576. (a) Any person who willfully fails to render any report or perform other duties, including use of the report format described in Section 1530, required under this chapter shall be punished by a fine of one hundred dollars (\$100) for each day such report is withheld or such duty is not performed, but not more than ten thousand dollars (\$10,000).

(b) Any person who willfully refuses to pay or deliver escheated property to the Controller as required under this chapter shall be punished by a fine of not less than five thousand dollars (\$5,000) nor more than fifty thousand dollars (\$50,000).

(c) No person shall be considered to have willfully failed to report, pay, or deliver escheated property, or perform other duties unless he or she has failed to respond within a reasonable time after notification by certified mail by the Controller's office of his or her failure to act.

